

**To:** Medina, Dayana[Medina.Dayana@epa.gov]  
**From:** Olszewski, Joshua  
**Sent:** Wed 7/26/2017 10:49:15 PM  
**Subject:** FW: 5th Circuit Oral argument on forum today, State of Texas, et al. v. EPA  
[17-60088 Petitioners Joint Response in Opposition to EPA Motion to Dismiss or Transfer.pdf](#)  
[17-60088 Intervenor Respondent Sierra Club Response in Support of EPA Motion to Dismiss or Transfer.pdf](#)  
[17-60088 Corrected Reply in Support of Motion to Transfer.pdf](#)  
[17-60088 Respondent's Motion to Dismiss or Transfer.pdf](#)

**From:** Carrillo, Andrea  
**Sent:** Wednesday, July 26, 2017 8:40 AM  
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**Subject:** 5th Circuit Oral argument on forum today, State of Texas, et al. v. EPA  
**Importance:** High

Later this afternoon, the 5<sup>th</sup> Circuit will hear oral argument regarding proper forum in State of Texas, et al. v. EPA, No. 17-60088 (5th Cir.), in which the State of Texas and an industry petitioner challenge supplemental designations in “Round 2” of air quality designations for the 2010 Sulfur Dioxide (SO<sub>2</sub>) Primary National Ambient Air Quality Standard. Sierra Club is an intervenor in support of EPA’s motion to dismiss or transfer.

As in its motion to dismiss or transfer, EPA will argue that, pursuant to Clean Air Act section 307(b), the action at issue is either nationally applicable or based on a determination of nationwide scope and effect, and therefore the 5<sup>th</sup> Circuit should grant EPA’s motion to either dismiss the petitions for improper venue or transfer the petitions to the D.C. Circuit.

Seven other petitions for review, from states, industry, named citizens, and Sierra Club, of the Round 2 designations (both the original action and this supplemental action) are currently consolidated in the D.C. Circuit, including duplicative petitions of the ones before the 5<sup>th</sup> Circuit

today.

Attached is the motion and related filings. A summary of the argument will be sent around once available.

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